IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 374 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYSHRIBEN PRAVINKUMAR MARU - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR JB DASTOOR for Applicant(s) : 1,MS SADHANA SAGAR for Applicant(s) : 1,
MR HL JANI, ADDL PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2,
NANAVATY ADVOCATES for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 05/03/2007

ORAL JUDGMENT

1. The petitioner- original complainant is before this Court being aggrieved by order passed by the learned 4th Civil Judge (S.D.) and Judicial Magistrate First Class, Amreli below Exh.42 in Criminal Case No. 972 of 1999 dated 13.08.2001.

2. The wife had filed a complaint in the Court of Chief Judicial Magistrate, Amreli on 23.8.1999 for an offence under Section 498-A, 506(2) and 114 of the Indian Penal Code. The same was registered as 'M' Case No. 39 of 1999. The Court ordered police investigation under Section 156(3) of the Code of Criminal Procedure. Later on, it was registered as Criminal Case No. 972 of 1999.

In the pending case, the accused-husband and the in-laws filed Exh.42 raising a preliminary objection, viz. the Court has no territorial jurisdiction. The contention of the accused is that, according to the complaint of the wife, offence under Section 498-A and 506(2) of the Indian Penal Code had taken place at Gondal and, therefore, cognizance could be taken only by Gondal Court in view of the provisions of Section 201 of the Cr.P.C. The accused relied upon a decision of this Court in the matter of Upendrasinh Amalsinh Rajput Vs. State of Gujarat reported in Ahmedabad Law Times 1997 423.

3. The learned Judicial Magistrate First Class, after hearing the rival submissions of both the parties, allowed Exh.42 (in Criminal Case No. 972 of 1999). The learned J.M.F.C. ordered that, 'in view of the provisions of Section 201 of the Cr.P.C., the complaint filed by complainant Jayshriben Pravinkumar Maru is returned to be presented in the proper court i.e. Gondal Court'.

4. Learned advocate for the petitioner Mr. Dastoor vehemently submitted that the learned J.M.F.C. has committed an error in allowing Exh.42 and returning the complaint to the complainant for presenting it in the proper court i.e. Gondal Court.

The learned advocate invited attention of the Court to the contents of the complaint. He submitted that, in the complaint, it is specifically alleged that, beside the offence under Sections 498-A and 506(2) of the I.P.C., the accused have also not returned the articles of 'Streedhan' which were brought by the complainant at the time of her marriage, to her in-law's place.

The learned advocate for the petitioner-original complainant submitted that, the question is squarely covered by a decision of this Court in the matter of Raginiben Gunvantsinh Tank Vs. Gunvantlal Keshavlal Tank and others reported in 2003(3) GLR 2027. The learned advocate invited attention of the Court to the following observations:

> "There are positive averments in the complaint that the complainant-wife is residing with her parents and her ordinary place of residence is shown to be Kanjari Road, Halol, District Panchmahals. So, it would be wrong to say that this address has been wrongly shown by the complainant only with a view to harass the accused persons and to drag them to a litigation on false averments to a distant and inconvenient place...."

The learned advocate also invited attention of the Court to the following observations:

> "It is true that the complainant-wife could have prayed for '*Streedhan*' and her personal properties by filing an application or by praying appropriate relief in the written reply filed in the divorce petition merely because complainant-wife could have prayed so or it was possible for her to file a similar complaint in the Court of J.M.F.C.,Bhuj where the accused persons have refused to return of her '*Streedhan*' and other personal property or in the Court of J.M.F.C., Adipur where she was residing with the accused No.1 after her marriage would not affect the right of complainant-wife to invoke the jurisdiction of the Court where she resides or in other words, where the accused is required to return her '*Streedhan*' and personal property, she has rightly invoked the jurisdiction vested with the Court of learned J.M.F.C., Halol in reference to sub-sec.(4) of Sec.181 of Cr.P.C...."

5. The learned advocate appearing for the respondents-original accused submitted that the decision cited above is not applicable to the facts of the present case. The learned advocate submitted that the facts of the case, in which the Court made the aforesaid observations, were different than the facts of the case on hand.

The learned advocate for the respondents could not convince this Court with the aforesaid submissions.

6. Learned Additional Public Prosecutor Mr. H.L. Jani submitted that, in view of the aforesaid decision, the order passed by the learned J.M.F.C., Amreli allowing Exh.42 is required to be quashed and set aside and the Court at Amreli be directed to proceed with the matter in accordance with law.

7. Having heard the learned advocates for the parties, having found that the learned J.M.F.C., Amreli has erred in allowing Exh.42, order dated 13.8.2001 is hereby quashed and set aside. The Court at Amreli is directed to proceed with the matter (Criminal Case No. 972 of 1999) in accordance with law.

Taking into consideration the age of the proceedings, the Court is directed to give priority to the matter and decide the same as expeditiously as possible, preferably within three months from the date of receipt of this order.

8. The application is allowed. Rule is made absolute.

(RAVI R. TRIPATHI, J.)

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